

**ASSEMBLY BILL**

**No. 2935**

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**Introduced by Committee on Information Technology  
(Dutra (Chair), Alquist, and Ducheny)**

March 23, 2000

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An act to amend Section 2952 of the Civil Code, to amend Sections 26205, 26205.1, 27001, 27002.1, and 27201 of, and to add Chapter 13 (commencing with Section 30700) to Division 3 of Title 3 of, the Government Code, relating to government records.

LEGISLATIVE COUNSEL'S DIGEST

AB 2935, as introduced, Committee on Information Technology. Government records.

(1) Existing law provides that whenever a mortgage or deed of trust presented for recordation contains a reference to provisions in a fictitious mortgage or deed preceded by a statement to the effect that it is not to be recorded, the county recorder shall record only the mortgage or deed of trust portion of the document and shall not be liable for failure to record the portion with instructions not to record.

This bill would delete that provision.

(2) Existing law authorizes county officers to comply with requirements to record and preserve documents and records by various methods before destroying original documents.

This bill would define information technology and related terms and would authorize the recording and preservation of documents by those county officers by the application of other information technology.

(3) Existing law requires documents required to be recorded by the county recorder to contain an original signature or signatures.

This bill would authorize facsimile signatures to be accepted on liens recorded by a government agency as specified.

Vote: majority. Appropriation: no. Fiscal committee: no. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 2952 of the Civil Code is  
2 amended to read:

3 2952. Mortgages and deeds of trust of real property  
4 may be acknowledged or proved, certified and recorded,  
5 in like manner and with like effect, as grants thereof;  
6 provided, however, that a mortgage or deed of trust of  
7 real property may be recorded and constructive notice of  
8 the same and the contents thereof given in the following  
9 manner:

10 Any person may record in the office of the county  
11 recorder of any county fictitious mortgages and deeds of  
12 trust of real property. ~~Such~~ *Those* fictitious mortgages  
13 and deeds of trust need not be acknowledged, or proved  
14 or certified to be recorded or entitled to record. ~~Such~~  
15 *Those* mortgages and deeds of trust shall have noted upon  
16 the face thereof that they are fictitious. The county  
17 recorder shall index and record ~~such~~ fictitious mortgages  
18 and deeds of trust in the same manner as other mortgages  
19 and deeds of trust are recorded, and shall note on all  
20 indices and records of the same that they are fictitious.  
21 Thereafter, any of the provisions of any ~~such~~ recorded  
22 fictitious mortgage or deed of trust may be included for  
23 any and all purposes in any mortgage or deed of trust by  
24 reference therein to any ~~such~~ *of those* provisions, without  
25 setting the same forth in full; provided, ~~such~~ *the* fictitious  
26 mortgage or deed of trust is of record in the county in  
27 which the mortgage or deed of trust adopting or  
28 including by reference any of the provisions thereof is  
29 recorded. ~~Such~~ *The* reference shall contain a statement,



1 as to each county in which the mortgage or deed of trust  
2 containing such a reference is recorded, of the date ~~such~~  
3 *the* fictitious mortgage or deed of trust was recorded, the  
4 county recorder's office wherein it is recorded, and the  
5 book or volume and the first page of the records in the  
6 recorder's office wherein and at which ~~any—such~~ *the*  
7 fictitious mortgage or deed of trust was recorded, and a  
8 statement by paragraph numbers or any other method  
9 that will definitely identify the same, of the specific  
10 provisions of ~~any—such~~ *the* fictitious mortgage or deed of  
11 trust that are being so adopted and included therein. The  
12 recording of any ~~such~~ mortgage or deed of trust which has  
13 included therein any ~~such~~ *of those* provisions by  
14 reference as aforesaid shall operate as constructive notice  
15 of the whole thereof including the terms, as a part of the  
16 written contents of ~~any—such~~ *the* mortgage or deed of  
17 trust, of ~~any—such~~ *those* provisions so included by  
18 reference as though the same were written in full therein.  
19 The parties bound or to be bound by provisions so  
20 adopted and included by reference shall be bound  
21 thereby in the same manner and with like effect for all  
22 purposes as though ~~such~~ *those* provisions had been and  
23 were set forth in full in any ~~such~~ mortgage or deed of  
24 trust.

25 ~~Whenever a mortgage or deed of trust is presented for~~  
26 ~~recordation and such mortgage or deed of trust contains~~  
27 ~~a reference to provisions in a fictitious mortgage or deed~~  
28 ~~of trust with a part or all of the provisions typed, written,~~  
29 ~~or printed on the mortgage or deed of trust preceded by~~  
30 ~~“do not record” or “not to be recorded,” or the like, the~~  
31 ~~county recorder shall record only the mortgage or deed~~  
32 ~~of trust portion of the document and shall not be liable for~~  
33 ~~failing to make a record of the portion of the document~~  
34 ~~bearing provisions preceded by the instructions not to~~  
35 ~~record.~~

36 The amendment to this section enacted by the 1957  
37 Regular Session of the Legislature does not constitute a  
38 change in, but is declaratory of, the preexisting law.

39 SEC. 2. Section 26205 of the Government Code is  
40 amended to read:



1 26205. At the request of the county officer concerned,  
2 the board of supervisors of any county may authorize the  
3 destruction of any record, paper, or document that is not  
4 expressly required by law to be filed and preserved if all  
5 of the following conditions are complied with:

6 (a) The record, paper, or document is photographed,  
7 microphotographed, reproduced by electronically  
8 recorded video images on magnetic surfaces, recorded in  
9 the electronic data-processing system, recorded on  
10 optical disk, or reproduced on film or any other medium  
11 that is a trusted system and that does not permit additions,  
12 deletions, or changes to the original document and is  
13 produced in compliance with the regulations adopted by  
14 the Secretary of State, as specified in Section 12168.7 for  
15 recording of permanent records or nonpermanent  
16 records.

17 (b) The device used to reproduce the record, paper,  
18 or document on film, optical disk, or any other medium  
19 is one that accurately reproduces the original thereof in  
20 all details and which does not permit additions, deletions,  
21 or changes to the original document images.

22 (c) The photographs, microphotographs,  
23 electronically recorded video images on magnetic  
24 surfaces, records in the electronic data-processing  
25 system, records recorded on optical disk, or other  
26 reproductions on film or any other medium, *including*  
27 *information technology pursuant to Section 30701*, are  
28 placed in conveniently accessible files and provision is  
29 made for preserving, examining, and using the files.

30 Notwithstanding any other provision of this section,  
31 destruction of the original records, papers, or documents  
32 is not authorized when the method of reproduction  
33 pursuant to this section is reproduction of electronically  
34 recorded video images on magnetic surfaces unless a  
35 duplicate videotape of the images is separately  
36 maintained. A duplicate copy of a record contained in the  
37 electronic data-processing system, on optical disk, or on  
38 any other medium that does not permit additions,  
39 deletions, or changes to the original document images  
40 shall also be separately maintained.



1 SEC. 3. Section 26205.1 of the Government Code is  
2 amended to read:

3 26205.1. (a) The county officer having custody of  
4 nonjudicial public records, documents, instruments,  
5 books, and papers may cause to be destroyed any or all of  
6 the records, documents, instruments, books, and papers  
7 if all of the following conditions exist:

8 (1) The board of supervisors of the county has adopted  
9 a resolution authorizing the county officer to destroy  
10 records, documents, instruments, books, and papers  
11 pursuant to this subdivision. The resolution may impose  
12 conditions, in addition to those specified in this  
13 subdivision, that the board of supervisors determines are  
14 appropriate.

15 (2) The county officer who destroys any record,  
16 document, instrument, book, or paper pursuant to the  
17 authority granted by this subdivision and a resolution of  
18 the board of supervisors adopted pursuant to paragraph  
19 (1) shall maintain for the use of the public a photographic  
20 or microphotographic film, electronically recorded video  
21 production, a record contained in the electronic  
22 data-processing system, a record recorded on optical disk,  
23 a record recorded by any other medium that does not  
24 permit additions, deletions, or changes to the original  
25 document, or other duplicate of the record, document,  
26 instrument, book, or paper destroyed.

27 (3) The record, paper or document is photographed,  
28 microphotographed, reproduced by electronically  
29 recorded video images on magnetic surfaces, recorded in  
30 the electronic data-processing system, recorded on  
31 optical disk or reproduced on film or any other medium,  
32 *or information technology pursuant to Section 30701*, that  
33 is a trusted system and that does not permit additions,  
34 deletions, or changes to the original document and is  
35 produced in compliance with the regulations adopted by  
36 the Secretary of State, as specified in Section 12168.7 for  
37 recording of permanent records or nonpermanent  
38 records.

39 (b) Paragraphs (2) and (3) of subdivision (a) do not  
40 apply to records prepared or received other than



1 pursuant to a state statute or county charter, or records  
2 that are not expressly required by law to be filed and  
3 preserved.

4 For the purposes of this section, every reproduction  
5 shall be deemed to be an original record and a transcript,  
6 exemplification, or certified copy of any reproduction  
7 shall be deemed to be a transcript, exemplification, or  
8 certified copy, as the case may be, of the original.

9 (c) The county clerk having custody of the original or  
10 a copy of the articles of any corporation may cause the  
11 destruction of any or all the documents. "Articles"  
12 includes the articles of incorporation, amendments  
13 thereto, amended articles, restated articles, certificate of  
14 incorporation, certificates of determination of  
15 preferences, dissolution certificates, merger certificates,  
16 and agreements of consolidation or merger.

17 (d) Notwithstanding any other provision of this  
18 section, destruction of the original records, papers, or  
19 documents is not authorized when the method of  
20 reproduction pursuant to this section is reproduction of  
21 electronically recorded video images on magnetic  
22 surfaces unless a duplicate videotape of the images is  
23 separately maintained. A duplicate copy of a record  
24 contained in the electronic data-processing system, on  
25 optical disk, or on any other medium that does not permit  
26 additions, deletions, or changes to the original document  
27 shall also be separately maintained.

28 SEC. 4. Section 27001 of the Government Code is  
29 amended to read:

30 27001. The treasurer shall file and keep the  
31 certificates of the auditor delivered to him or her when  
32 money is paid into the treasury. Notwithstanding Sections  
33 26201, 26202, and 26205, the treasurer may destroy any  
34 certificate pursuant to this section under either of the  
35 following circumstances:

36 (a) The certificate has been filed for more than five  
37 years.

38 (b) The certificate has been filed for more than one  
39 year, and all of the following conditions are complied  
40 with:



1 (1) The record, paper, or document is photographed,  
2 microphotographed, or reproduced on film of a type  
3 approved for permanent photographic records by the  
4 National Bureau of Standards.

5 (2) The device used to reproduce the record, paper, or  
6 document on film is one that accurately reproduces the  
7 original thereof in all details.

8 (3) The photographs, microphotographs, or other  
9 reproductions on film are placed in conveniently  
10 accessible files and provision is made for preserving,  
11 examining, and using the same.

12 (4) *Other information technology that is used in*  
13 *accordance with Section 30701.*

14 SEC. 5. Section 27002.1 of the Government Code is  
15 amended to read:

16 27002.1. (a) The treasurer may, in lieu of entering in  
17 books an account of the receipt and expenditure of all  
18 money received or paid out by him or her as provided in  
19 Section 27002, photograph, microphotograph, photocopy,  
20 or enter into an electronic data processing system that  
21 utilizes optical transmission and filing, all receipts for  
22 money received by him or her and all warrants paid out  
23 by him or her.

24 (b) Every reproduction described in subdivision (a)  
25 shall be deemed and considered an original, and a  
26 transcript, exemplification, or certified copy of any of  
27 those reproductions shall be deemed and considered a  
28 transcript, exemplification, or certified copy, as the case  
29 may be, of the original.

30 (c) All reproductions described in subdivision (a) shall  
31 be properly indexed and placed in convenient, accessible  
32 files. Each roll of microfilm shall be deemed and  
33 constitute a book, and shall be designated and numbered,  
34 and provision shall be made for preserving, examining,  
35 and using it.

36 A duplicate of each roll of microfilm shall be made and  
37 kept in a safe and separate place.

38 (d) *The treasurer may also utilize other information*  
39 *technology in accordance with Section 30701.*



1 SEC. 6. Section 27201 of the Government Code is  
2 amended to read:

3 27201. (a) The recorder shall, upon payment of  
4 proper fees and taxes, accept for recordation any  
5 instrument, paper, or notice which is authorized or  
6 required by statute or court order to be recorded, if the  
7 instrument, paper, or notice contains sufficient  
8 information to be indexed as provided by statute, meets  
9 recording requirements of state statutes and local  
10 ordinances, and is photographically reproducible. The  
11 county recorder shall not refuse to record any  
12 instrument, paper, or notice which is authorized or  
13 required by statute or court order to be recorded on the  
14 basis of its lack of legal sufficiency.

15 “Photographically reproducible,” for purposes of this  
16 division, means all instruments, papers, or notices which  
17 comply with standards as recommended by the American  
18 National Standards Institute or the Association for  
19 Information and Image Management for recording of  
20 records.

21 (b) Each instrument, paper, or notice shall contain an  
22 original signature or signatures, except as otherwise  
23 provided by law, or be a certified copy of the original. A  
24 *facsimile signature shall be accepted on a lien recorded*  
25 *by a governmental agency when that facsimile signature*  
26 *has been officially adopted by that agency. The lien shall*  
27 *have noted on its face a statement to that effect.*

28 SEC. 7. Chapter 13 (commencing with Section 30700)  
29 is added to Division 3 of Title 3 of the Government Code,  
30 to read:

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32  
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CHAPTER 13. INFORMATION TECHNOLOGY

34 30700. The Legislature finds that information  
35 technology is an indispensable tool of modern  
36 government for the rapid and efficient handling of data,  
37 records, communication, and transactions, and for  
38 assisting decision makers in carrying out their tasks and  
39 responsibilities at all levels of government.



1 30701. In matters relating to information technology  
2 as defined in Section 30702 and to include the  
3 preparation, use, processing, transmittal, and storage of  
4 signatures, data, documents, reports, and accounting,  
5 accepted information technology and business practices  
6 may be applied. Information technology shall conform  
7 and comply with appropriate industry standards without  
8 jeopardizing the security or confidentiality of  
9 information as provided by statute or of individual rights  
10 to privacy provided by the California and United States  
11 Constitutions.

12 30702. The following definitions apply for the  
13 purposes of this chapter:

14 (a) “Appropriate industry standards” includes, but is  
15 not limited to, those standards promulgated by  
16 organizations such as the American National Standards  
17 Institute (ANSI), Association for Information and Image  
18 Management International (AIIM), International  
19 Standards Organization (ISO), United States National  
20 Standards Committee (USNC), and International  
21 Electrotechnical Commission (IEC). Those  
22 organizations support goals of United States and global  
23 standardization.

24 (b) “Information technology” includes, but is not  
25 limited to, all electronic technology systems and services,  
26 automated information handling, system design and  
27 analysis, conversion of data, computer programming,  
28 information storage and retrieval, telecommunications  
29 that include voice, video, and data communications,  
30 requisite system controls, simulation, and electronic  
31 commerce.

